

# BILL ANALYSIS

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Department, Board, Or Commission	Author	Bill Number
Franchise Tax Board	Dymally	AB 67

## SUBJECT

State Agencies/Bilingual Services

## SUMMARY

This bill would add definitions for “qualified bilingual person, employee or interpreter” and would expand the instances in which a state agency may be exempted from the requirements of delivering bilingual services.

## PURPOSE OF BILL

According to the author’s office, the purpose of this bill is to make it clear that the responsibility for certifying qualified bilingual persons is delegated to the State Personnel Board.

## EFFECTIVE/OPERATIVE DATE

This bill would be effective on January 1, 2008, and would be operative as of that date.

## ANALYSIS

### FEDERAL/STATE LAW

Title VI of the Civil Rights Act of 1964 states that no person shall be excluded from participation in, denied the benefits of, or be subject to discrimination based on race, color, or national origin under any program or activity receiving federal financial assistance. A federal program's failure to assure that people who are not proficient in the English language can effectively participate in and benefit from the federal program or activity may constitute discrimination on the basis of national origin. Based on Executive Order 13166, federal agencies are required to provide services and information to individuals with Limited English Proficiency (LEP) in a manner that ensures meaningful access by the applicants or beneficiaries of those federal agency programs or activities.

Current state law requires state agencies directly involved in the furnishing of information or rendering of services to a substantial number of non-English speaking people to employ qualified bilingual persons in public contact positions. State agencies must provide a sufficient number of qualified bilingual persons to enable the agency to provide the same level of services in the language of the non-English speaking person as provided to the English speaking person. State agencies may furnish non-English written materials or, in the alternative, provide translation services or aids in the local offices to assist their customers in understanding English forms, letters, or notices.

State agencies are required to report to the State Personnel Board, in every even numbered year, a status report on the agency’s plan for delivering bilingual services, including training, recruitment, and methods used to identify non-English speaking needs of its customers.

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State agencies that do not furnish information or render services to the public, or consistently receive limited public contact with the non-English speaking public, may obtain an exemption from the reporting requirement.

### THIS BILL

This bill would make clarifying amendments to existing requirements for state agencies to provide certified bilingual services to non-English speaking customers that comprise 5% or more of the people served by the state agency who request information or services. The amendments to existing law in this bill would clarify that the furnishing of information or rendering of services includes, but is not limited to, providing public safety protection or prevention, administering state benefits, implementing public information programs, managing public resources or facilities, holding public hearings, and engaging in any other state program or activity that involves public contact.

This bill would specify the definition of a “qualified bilingual person, interpreter or employee” to mean someone who is proficient in both the English language and the non-English language to be used, and for state agency purposes, must be one of the following:

- A bilingual person or employee who the State Personnel Board has tested and certified as proficient in the ability to understand and convey in English and in non-English language, commonly used terms and ideas, including terms and ideas regularly used in state government,
- A bilingual employee who was tested and certified by a state agency or other testing authority approved by the State Personnel Board as proficient in the ability to understand and convey in English and in non-English language, commonly used terms and ideas, including terms and ideas regularly used in state government, or
- An interpreter who has met the testing or certification standards established by the State Personnel Board for outside or contract interpreters as proficient in the ability to communicate commonly used terms and ideas between the English language and non-English language to be used and has knowledge of basic interpreter practices, including but not limited to, confidentiality, neutrality, accuracy, completeness, and transparency.

This bill would allow state agencies that have fewer than the equivalent of 25 full-time employees in public contact positions to be exempt from the bilingual services reporting requirement.

This bill changes the due dates of the bilingual survey from March 31 of every even numbered year to October 1 of every even numbered year beginning in 2008. Additionally, this bill changes the due date for a state agency to develop and submit an implementation plan related to bilingual services from every even numbered year to every odd numbered year beginning in 2009.

This bill would require state agencies to apply annually for exemption from the bilingual services requirements and would limit the exemption to five consecutive survey periods.

## **IMPLEMENTATION CONSIDERATIONS**

Implementing this bill would not significantly impact the department's programs or operations. Based on the department's bilingual survey results, FTB would be required to contract with outside agents to provide certified bilingual services for three additional Spanish speaking interpreters to meet the provisions of this bill.

## **LEGISLATIVE HISTORY**

AB 2408 (Yee, 2003/2004) would have made changes to the staffing requirements of state agencies that provide bilingual services. This bill was vetoed August 27, 2004. In his veto message, Governor Schwarzenegger stated, "...These additional requirements will increase the workload for all state agencies, including SPB, and could result in significant delays in the filling of critical positions by prolonging the hiring process when vacancies need to [be] filled in various state departments and agencies."

SB 987 (Escutia, 2001/2002) would have required state agencies to expand their bilingual services. This bill was vetoed September 30, 2002. In his veto message, Governor Davis stated that while he supported the intent of this legislation, he believed the State's financial situation did not permit enactment.

AB 763 (Shelley, 2001/2002) would have required state agencies to provide, in non-English languages, any existing materials on the Internet that explain state agency services. This bill failed to pass out of the house of origin.

## **PROGRAM BACKGROUND**

Currently, FTB provides bilingual services in over 37 different languages to the taxpayers of California. These translation services are provided primarily by 279 FTB employees self identified as being fluent in foreign languages. Fifty-one of the FTB employees providing bilingual services are certified, primarily in the Spanish language. In instances where a taxpayer contacts the department in a language not provided, the department would contract with outside agencies for language assistance to service the taxpayer. Because of the diverse bilingualism of FTB employees, both certified and uncertified, the department did not have to contract for outside services in 2006. Employees who use bilingual skills in over 10% of their daily work and are certified receive a pay differential for the use of their bilingual skills. Because of the diversity of California taxpayers, not all bilingual employees use their bilingual skills in over 10% of their work day and do not receive a pay differential.

## **OTHER STATES' INFORMATION**

Laws from the states of *Illinois*, *Florida*, *Massachusetts*, *New York*, *Michigan*, and *Minnesota* were reviewed based on their similarities to California's economy, business entity types, and tax laws. *Illinois*, *Michigan*, and *Minnesota* require state agencies to assess annually the need for non-English speaking personnel to service constituents with limited English proficiency and provide sufficient service. Similar statutes for *Florida*, *Massachusetts*, and *New York* were not located.

## **FISCAL IMPACT**

FTB would need to contract for three additional Spanish speaking interpreters to fill the bilingual service needs with certified bilingual interpreters. FTB would absorb the additional costs that would be incurred to implement this bill.

## **ECONOMIC IMPACT**

This bill would not impact the state's income tax revenue.

## **VOTES**

Assembly Floor – Ayes: 72, Noes: 0

Senate Floor – Ayes: 37, Noes: 2

Concurrence – Ayes: 78, Noes: 0

## **LEGISLATIVE STAFF CONTACT**

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